

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

In re: Vitamins Antitrust Litigation

MDL No. 1285

This document relates to:

Misc No. 99-0197 (TFH)

Nutra-Blend, L.L.C. v. F. Hoffmann-La
Roche Ltd et al., 99CV3329 (W.D. Mo.)

Publix Super Markets Inc. v. F. Hoffmann-La
Roche Ltd, et al., 99CV2786 (M.D. Fla.)

FILED

MAR 3 2000

NANCY MAYER-WHITTINGTON, CLERK
U.S. DISTRICT COURT

[Proposed]

**STIPULATED ORDER REGARDING BRIEFING SCHEDULE ON RESPONSES TO
THE ABOVE-REFERENCED COMPLAINTS**

This Stipulation and Proposed Order is made with reference to the following facts:

Plaintiffs in the above-captioned cases have effectuated service on Defendants BASF Aktiengesellschaft and F. Hoffmann-La Roche Ltd ("the Foreign Defendants");

On July 29, 1999, this Court issued a ruling that "the relevant forum" for personal jurisdiction under the Clayton Act is "the United States as a whole." On January 11, 2000, the D.C. Circuit Court of Appeals in GTE New Media Services Inc. v. BellSouth Corporation, No. 99-7097, addressed the requirements for jurisdiction under Section 12 of the Clayton Act;

The Foreign Defendants contend that personal jurisdiction under the Sherman Act must be measured by their "local contacts" with the transferor forum and not by their contacts with the United States as a whole ("national contacts"); and

The parties believe that it would be more efficient to limit their briefing at this time to the effect of GTE and the question of whether local contacts or national contacts are the appropriate test for jurisdiction.

Accordingly, IT IS HEREBY STIPULATED AND AGREED, by and between counsel for the undersigned parties, that:

1. Except as expressly set forth below, the Foreign Defendants will be deemed to have filed motions to dismiss the above-captioned cases limited exclusively to the following legal issue: whether personal jurisdiction should be measured by local contacts with the transferor forum or national contacts with the United States as a whole. The Foreign Defendants incorporate their previous briefs on this issue, filed in Cargill, Inc., et al. v. F. Hoffmann-La Roche Ltd, et al., 99C5167 (N.D. Ill.); The Quaker Oats Company et al. v. BASF AG et al., 99CV1972 (D. D.C.); Southern States Cooperative, Inc. et al. v. Akzo Nobel, Inc. et al., 5:99CV00070 (W.D. Va.); Cactus Operating, Ltd. et al. v. Akzo Nobel, Inc. et al., 2:99CV288-J (N.D. Tx.); Meijer, Inc. v. F. Hoffmann-La Roche Ltd et al., 1:99CV789 (W.D. Mich.); Blue Seal Feeds, Inc. et al. v. Akzo Nobel, Inc. et al., 99CV3226 (C.D. Ill.); Tyson Foods, Inc. et al. v. Akzo Nobel, Inc. et al., 99CV5134 (W.D. Ark.); and Marshall Durbin Farms, Inc. et al. v. Akzo Nobel, Inc. et al., 2:99CV0152 (N.D. Ga.).
2. In each case where the Court determines that the relevant forum is the United States as a whole, the Foreign Defendants will file Answers to the complaints in each such case within 20 days of the Court's ruling.¹
3. If, on the other hand, this Court finds that "local contacts" are the relevant forum in any of the above-captioned cases, then the parties will agree upon a briefing schedule to address the question of whether the Foreign Defendants have the requisite local contacts to support personal jurisdiction in that particular case.

This stipulation is not intended to waive and does not waive any rights of plaintiffs or defendants, or any defense that the defendants may have including, but not limited to, the defense

¹ By agreeing to file answers to the complaints in each such case within 20 days of a ruling by the Court that the relevant forum is the United States as a whole, the Foreign Defendants do not waive any rights they may have to appeal such a ruling or any rights they may have to seek a stay of their obligation to answer, pending any such appeal.

of insufficiency of service of process or lack of personal jurisdiction.

Respectfully submitted,

Jenny Clevenger /sek

Michael C. Manning, Esq.
Jenny Clevenger, Esq.
C. Brooks Wood, Esq.
W. Dennis Cross, Esq.
Morrison & Hecker L.L.P.
Suite 1600
2800 North Central

**Attorneys for plaintiff in Nutra-Blend,
L.L.C. v. F. Hoffmann-La Roche Ltd et al.,
99CV3329 (W.D. Mo.)**

Joseph M. Vanek /sek

Joseph M. Vanek, Esq.
Darr, Fisher, Kanaris & Vanek, P.C.
200 South Wacker Drive
Suite 3350
Chicago, Illinois 60606
Tel: 312-474-1400

**Attorneys for plaintiff in Publix Super
Markets Inc. v. F. Hoffmann-La Roche
Ltd, et al., 99CV2786 (M.D. Fla.)**

Scott W. Muller /sek

Scott W. Muller (D.C. Bar No. 397242)
DAVIS POLK & WARDWELL
1300 I Street, N.W.
Washington, D.C. 20005
Telephone: (202)962-7000

**Attorneys for Defendant F. Hoffmann-La
Roche Ltd and on behalf of BASF AG for
purposes of this stipulation**

SO ORDERED:

Thomas F. Hogan
Thomas F. Hogan
United States District Judge

3/2/00